

JEFFREY M. VUCINICH, ESQ. BAR#: 67906
email: jvucinich@clappmoroney.com
DANIEL D. MARCUS, ESQ. BAR #: 312740
Email: dmarcus@clappmoroney.com
CLAPP, MORONEY, VUCINICH, BEEMAN and SCHELEY
A PROFESSIONAL CORPORATION
1111 Bayhill Drive, Suite 300
San Bruno, CA 94066
(650) 989-5400 (650) 989-5499 FAX

Attorneys for Defendant
KRISTOFER BIORN (erroneously sued as Kristof Biorn)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Paul Mula Jr., a California resident,
individually, and on behalf of the Ogier
Revocable Trust, together with the putative
Helene Mula-Stouky and Paul S. Mula Jr.
Trusts,

Plaintiffs,

vs.

Helene Mula-Stouky, a California resident,
both individually and as former Successor
Trustee of the Ogier Revocable Trust Dated
August 7, 2000 and former Putative Trustee of
the Helene Mula-Stouky Sub-Trust thereof;
Alan Mula, a California resident; Terry
Wallace, née Campbell, an Idaho resident;
Kristof Biorn, a California resident; Crist,
Schulz, Biorn & Shepherd APC, a California
Professional Corporation; Patricia Bye, a
California resident, both individually and as
current Successor Trustee of the Helene Mula-
Stouky Trust Dated November 24, 1997,
current Successor Trustee of the Ogier
Revocable Trust Dated August 7, 2000, and
Conservator of the Conservatorship Estate of
Helene Mula-Stouky; Bye & Bye Services, a
California Sole Proprietorship; Howard

Case No. 5:21-cv-04540-BLF

**DEFENDANT KRISTOFER BIORN'S
ANSWER TO PLAINTIFFS' FIRST
AMENDED COMPLAINT**

Complaint filed: June 11, 2021

Trial date: N/A

1 G. Frank, a California resident; Alexandra R.
2 Martin, a California resident; Aaron, Riechert,
3 Carpol & Riffle, APC, a California
4 Professional Corporation; Robert E.
5 Temmerman, a California resident;
6 Temmerman, Cilley & Kohlmann, LLP, a
7 California Professional Corporation; Christine
8 Smith, née Weiss, a California resident, both
9 individually and as Conservator of the Person
10 of Helene Mula-Stouky; and Does 1-100,

11
12 Defendants.

13 Defendant KRISTOFER BIORN (erroneously sued as Kristof Biorn) answers the First
14 Amended Complaint of Plaintiff PAUL MULA JR., A CALIFORNIA RESIDENT,
15 INDIVIDUALLY, AND ON BEHALF OF THE OGIER REVOCABLE TRUST, TOGETHER
16 WITH THE PUTATIVE HELENE MULA-STOUKY AND PAUL S. MULA JR. TRUSTS
17 (hereinafter “Plaintiff”) as follows:

18 **SUMMARY OF THIS LAWSUIT**

19 1. Answering ¶ 1 of the First Amended Complaint, Defendant lacks sufficient
20 information and belief upon which to base an answer, and for that reason, denies generally and
21 specifically the allegations contained herein.

22 2. Answering ¶ 2 of the First Amended Complaint, Defendant lacks sufficient
23 information and belief upon which to base an answer, and for that reason, denies generally and
24 specifically the allegations contained herein.

25 3. Answering ¶ 3 of the First Amended Complaint, Defendant lacks sufficient
26 information and belief upon which to base an answer, and for that reason, denies generally and
27 specifically the allegations contained herein.

28 4. Answering ¶ 4 of the First Amended Complaint, Defendant lacks sufficient
information and belief upon which to base an answer, and for that reason, denies generally and
specifically the allegations contained herein.

JURISDICTION, VENUE and CONDITIONS PRECEDENT

5. Answering ¶ 5 of the First Amended Complaint, Defendant lacks sufficient

1 information and belief upon which to base an answer, and for that reason, denies generally and
2 specifically the allegations contained herein.

3 15. Answering ¶ 8.6 of the First Amended Complaint, Defendant lacks sufficient
4 information and belief upon which to base an answer, and for that reason, denies generally and
5 specifically the allegations contained herein.

6 16. Answering ¶ 8.7 of the First Amended Complaint, Defendant lacks sufficient
7 information and belief upon which to base an answer, and for that reason, denies generally and
8 specifically the allegations contained herein.

9 17. Answering ¶ 8.8 of the First Amended Complaint, Defendant lacks sufficient
10 information and belief upon which to base an answer, and for that reason, denies generally and
11 specifically the allegations contained herein.

12 18. Answering ¶ 8.9 of the First Amended Complaint, Defendant lacks sufficient
13 information and belief upon which to base an answer, and for that reason, denies generally and
14 specifically the allegations contained herein.

15 19. Answering ¶ 8.10 of the First Amended Complaint, Defendant lacks sufficient
16 information and belief upon which to base an answer, and for that reason, denies generally and
17 specifically the allegations contained herein.

18 20. Answering ¶ 8.11 of the First Amended Complaint, Defendant lacks sufficient
19 information and belief upon which to base an answer, and for that reason, denies generally and
20 specifically the allegations contained herein.

21 21. Answering ¶ 8.12 of the First Amended Complaint, Defendant lacks sufficient
22 information and belief upon which to base an answer, and for that reason, denies generally and
23 specifically the allegations contained herein.

24 22. Answering ¶ 8.13 of the First Amended Complaint, Defendant lacks sufficient
25 information and belief upon which to base an answer, and for that reason, denies generally and
26 specifically the allegations contained herein.

27 23. Answering ¶ 8.14 of the First Amended Complaint, Defendant lacks sufficient
28 information and belief upon which to base an answer, and for that reason, denies generally and

1 specifically the allegations contained herein.

2 33. Answering ¶ 17 of the First Amended Complaint, Defendant lacks sufficient
3 information and belief upon which to base an answer, and for that reason, denies generally and
4 specifically the allegations contained herein.

5 34. Answering ¶ 18 of the First Amended Complaint, Defendant lacks sufficient
6 information and belief upon which to base an answer, and for that reason, denies generally and
7 specifically the allegations contained herein.

8 35. Answering ¶ 19 of the First Amended Complaint, Defendant lacks sufficient
9 information and belief upon which to base an answer, and for that reason, denies generally and
10 specifically the allegations contained herein.

11 36. Answering ¶ 20 of the First Amended Complaint, Defendant lacks sufficient
12 information and belief upon which to base an answer, and for that reason, denies generally and
13 specifically the allegations contained herein.

14 37. Answering ¶ 21 of the First Amended Complaint, Defendant lacks sufficient
15 information and belief upon which to base an answer, and for that reason, denies generally and
16 specifically the allegations contained herein.

17 38. Answering ¶ 22 of the First Amended Complaint, Defendant lacks sufficient
18 information and belief upon which to base an answer, and for that reason, denies generally and
19 specifically the allegations contained herein.

20 39. Answering ¶ 23 of the First Amended Complaint, Defendant lacks sufficient
21 information and belief upon which to base an answer, and for that reason, denies generally and
22 specifically the allegations contained herein.

23 40. Answering ¶ 24 of the First Amended Complaint, Defendant lacks sufficient
24 information and belief upon which to base an answer, and for that reason, denies generally and
25 specifically the allegations contained herein.

26 41. Answering ¶ 25 of the First Amended Complaint, Defendant lacks sufficient
27 information and belief upon which to base an answer, and for that reason, denies generally and
28 specifically the allegations contained herein.

1 42. Answering ¶ 26 of the First Amended Complaint, Defendant lacks sufficient
2 information and belief upon which to base an answer, and for that reason, denies generally and
3 specifically the allegations contained herein.

4 43. Answering ¶ 27 of the First Amended Complaint, Defendant lacks sufficient
5 information and belief upon which to base an answer, and for that reason, denies generally and
6 specifically the allegations contained herein.

7 44. Answering ¶ 28 of the First Amended Complaint, Defendant lacks sufficient
8 information and belief upon which to base an answer, and for that reason, denies generally and
9 specifically the allegations contained herein.

10 45. Answering ¶ 29 of the First Amended Complaint, Defendant lacks sufficient
11 information and belief upon which to base an answer, and for that reason, denies generally and
12 specifically the allegations contained herein.

13 46. Answering ¶ 30 of the First Amended Complaint, Defendant lacks sufficient
14 information and belief upon which to base an answer, and for that reason, denies generally and
15 specifically the allegations contained herein.

16 47. Answering ¶ 31 of the First Amended Complaint, Defendant lacks sufficient
17 information and belief upon which to base an answer, and for that reason, denies generally and
18 specifically the allegations contained herein.

19 48. Answering ¶ 32 of the First Amended Complaint, Defendant lacks sufficient
20 information and belief upon which to base an answer, and for that reason, denies generally and
21 specifically the allegations contained herein.

22 49. Answering ¶ 33 of the First Amended Complaint, Defendant lacks sufficient
23 information and belief upon which to base an answer, and for that reason, denies generally and
24 specifically the allegations contained herein.

25 50. Answering ¶ 34 of the First Amended Complaint, Defendant lacks sufficient
26 information and belief upon which to base an answer, and for that reason, denies generally and
27 specifically the allegations contained herein.

28 51. Answering ¶ 35 of the First Amended Complaint, Defendant lacks sufficient

1 information and belief upon which to base an answer, and for that reason, denies generally and
2 specifically the allegations contained herein.

3 52. Answering ¶ 36 of the First Amended Complaint, Defendant lacks sufficient
4 information and belief upon which to base an answer, and for that reason, denies generally and
5 specifically the allegations contained herein.

6 53. Answering ¶ 37 of the First Amended Complaint, Defendant lacks sufficient
7 information and belief upon which to base an answer, and for that reason, denies generally and
8 specifically the allegations contained herein.

9 54. Answering ¶ 38 of the First Amended Complaint, Defendant lacks sufficient
10 information and belief upon which to base an answer, and for that reason, denies generally and
11 specifically the allegations contained herein.

12 55. Answering ¶ 39 of the First Amended Complaint, Defendant lacks sufficient
13 information and belief upon which to base an answer, and for that reason, denies generally and
14 specifically the allegations contained herein.

15 56. Answering ¶ 40 of the First Amended Complaint, Defendant lacks sufficient
16 information and belief upon which to base an answer, and for that reason, denies generally and
17 specifically the allegations contained herein.

18 57. Answering ¶ 41 of the First Amended Complaint, Defendant lacks sufficient
19 information and belief upon which to base an answer, and for that reason, denies generally and
20 specifically the allegations contained herein.

21 58. Answering ¶ 42 of the First Amended Complaint, Defendant lacks sufficient
22 information and belief upon which to base an answer, and for that reason, denies generally and
23 specifically the allegations contained herein.

24 59. Answering ¶ 43 of the First Amended Complaint, Defendant lacks sufficient
25 information and belief upon which to base an answer, and for that reason, denies generally and
26 specifically the allegations contained herein.

27 60. Answering ¶ 44 of the First Amended Complaint, Defendant lacks sufficient
28 information and belief upon which to base an answer, and for that reason, denies generally and

1 specifically the allegations contained herein.

2 61. Answering ¶ 45 of the First Amended Complaint, Defendant lacks sufficient
3 information and belief upon which to base an answer, and for that reason, denies generally and
4 specifically the allegations contained herein.

5 62. Answering ¶ 46 of the First Amended Complaint, Defendant lacks sufficient
6 information and belief upon which to base an answer, and for that reason, denies generally and
7 specifically the allegations contained herein.

8 63. Answering ¶ 47 of the First Amended Complaint, Defendant lacks sufficient
9 information and belief upon which to base an answer, and for that reason, denies generally and
10 specifically the allegations contained herein.

11 64. Answering ¶ 48 of the First Amended Complaint, Defendant lacks sufficient
12 information and belief upon which to base an answer, and for that reason, denies generally and
13 specifically the allegations contained herein.

14 65. Answering ¶ 49 of the First Amended Complaint, Defendant lacks sufficient
15 information and belief upon which to base an answer, and for that reason, denies generally and
16 specifically the allegations contained herein.

17 66. Answering ¶ 50 of the First Amended Complaint, Defendant lacks sufficient
18 information and belief upon which to base an answer, and for that reason, denies generally and
19 specifically the allegations contained herein.

20 67. Answering ¶ 51 of the First Amended Complaint, Defendant lacks sufficient
21 information and belief upon which to base an answer, and for that reason, denies generally and
22 specifically the allegations contained herein.

23 68. Answering ¶ 52 of the First Amended Complaint, Defendant lacks sufficient
24 information and belief upon which to base an answer, and for that reason, denies generally and
25 specifically the allegations contained herein.

26 69. Answering ¶ 53 of the First Amended Complaint, Defendant lacks sufficient
27 information and belief upon which to base an answer, and for that reason, denies generally and
28 specifically the allegations contained herein.

1 70. Answering ¶ 54 of the First Amended Complaint, Defendant lacks sufficient
2 information and belief upon which to base an answer, and for that reason, denies generally and
3 specifically the allegations contained herein.

4 71. Answering ¶ 55 of the First Amended Complaint, Defendant lacks sufficient
5 information and belief upon which to base an answer, and for that reason, denies generally and
6 specifically the allegations contained herein.

7 72. Answering ¶ 56 of the First Amended Complaint, Defendant lacks sufficient
8 information and belief upon which to base an answer, and for that reason, denies generally and
9 specifically the allegations contained herein.

10 73. Answering ¶ 57 of the First Amended Complaint, Defendant lacks sufficient
11 information and belief upon which to base an answer, and for that reason, denies generally and
12 specifically the allegations contained herein.

13 74. Answering ¶58 of the First Amended Complaint, Defendant lacks sufficient
14 information and belief upon which to base an answer, and for that reason, denies generally and
15 specifically the allegations contained herein.

16 75. Answering ¶ 59 of the First Amended Complaint, Defendant lacks sufficient
17 information and belief upon which to base an answer, and for that reason, denies generally and
18 specifically the allegations contained herein.

19 76. Answering ¶ 60 of the First Amended Complaint, Defendant lacks sufficient
20 information and belief upon which to base an answer, and for that reason, denies generally and
21 specifically the allegations contained herein.

22 77. Answering ¶61 of the First Amended Complaint, Defendant lacks sufficient
23 information and belief upon which to base an answer, and for that reason, denies generally and
24 specifically the allegations contained herein.

25 78. Answering ¶ 62 of the First Amended Complaint, Defendant lacks sufficient
26 information and belief upon which to base an answer, and for that reason, denies generally and
27 specifically the allegations contained herein.

28 79. Answering ¶ 63 of the First Amended Complaint, Defendant lacks sufficient

1 information and belief upon which to base an answer, and for that reason, denies generally and
2 specifically the allegations contained herein.

3 80. Answering ¶ 64 of the First Amended Complaint, Defendant lacks sufficient
4 information and belief upon which to base an answer, and for that reason, denies generally and
5 specifically the allegations contained herein.

6 81. Answering ¶ 65 of the First Amended Complaint, Defendant lacks sufficient
7 information and belief upon which to base an answer, and for that reason, denies generally and
8 specifically the allegations contained herein.

9 82. Answering ¶ 66 of the First Amended Complaint, Defendant lacks sufficient
10 information and belief upon which to base an answer, and for that reason, denies generally and
11 specifically the allegations contained herein.

12 83. Answering ¶ 67 of the First Amended Complaint, Defendant lacks sufficient
13 information and belief upon which to base an answer, and for that reason, denies generally and
14 specifically the allegations contained herein.

15 84. Answering ¶ 68 of the First Amended Complaint, Defendant lacks sufficient
16 information and belief upon which to base an answer, and for that reason, denies generally and
17 specifically the allegations contained herein.

18 85. Answering ¶ 69 of the First Amended Complaint, Defendant lacks sufficient
19 information and belief upon which to base an answer, and for that reason, denies generally and
20 specifically the allegations contained herein.

21 86. Answering ¶ 70 of the First Amended Complaint, Defendant lacks sufficient
22 information and belief upon which to base an answer, and for that reason, denies generally and
23 specifically the allegations contained herein.

24 87. Answering ¶ 71 of the First Amended Complaint, Defendant lacks sufficient
25 information and belief upon which to base an answer, and for that reason, denies generally and
26 specifically the allegations contained herein.

27 **COUNT 1**

28 88. Answering ¶ 72 of the First Amended Complaint, Defendant lacks sufficient

1 information and belief upon which to base an answer, and for that reason, denies generally and
2 specifically the allegations contained herein.

3 89. Answering ¶ 73 of the First Amended Complaint, Defendant lacks sufficient
4 information and belief upon which to base an answer, and for that reason, denies generally and
5 specifically the allegations contained herein.

6 90. Answering ¶74 of the First Amended Complaint, Defendant lacks sufficient
7 information and belief upon which to base an answer, and for that reason, denies generally and
8 specifically the allegations contained herein.

9 91. Answering ¶74.1 of the First Amended Complaint, Defendant lacks sufficient
10 information and belief upon which to base an answer, and for that reason, denies generally and
11 specifically the allegations contained herein.

12 92. Answering ¶74.2 of the First Amended Complaint, Defendant lacks sufficient
13 information and belief upon which to base an answer, and for that reason, denies generally and
14 specifically the allegations contained herein.

15 93. Answering ¶74.3 of the First Amended Complaint, Defendant lacks sufficient
16 information and belief upon which to base an answer, and for that reason, denies generally and
17 specifically the allegations contained herein.

18 94. Answering ¶74.4 of the First Amended Complaint, Defendant lacks sufficient
19 information and belief upon which to base an answer, and for that reason, denies generally and
20 specifically the allegations contained herein.

21 95. Answering ¶74.5 of the First Amended Complaint, Defendant lacks sufficient
22 information and belief upon which to base an answer, and for that reason, denies generally and
23 specifically the allegations contained herein.

24 96. Answering ¶74.6 of the First Amended Complaint, Defendant lacks sufficient
25 information and belief upon which to base an answer, and for that reason, denies generally and
26 specifically the allegations contained herein.

27 97. Answering ¶74.7 of the First Amended Complaint, Defendant lacks sufficient
28 information and belief upon which to base an answer, and for that reason, denies generally and

1 specifically the allegations contained herein.

2 98. Answering ¶74.8 of the First Amended Complaint, Defendant lacks sufficient
3 information and belief upon which to base an answer, and for that reason, denies generally and
4 specifically the allegations contained herein.

5 99. Answering ¶74.9 of the First Amended Complaint, Defendant lacks sufficient
6 information and belief upon which to base an answer, and for that reason, denies generally and
7 specifically the allegations contained herein.

8 100. Answering ¶75 of the First Amended Complaint, Defendant lacks sufficient
9 information and belief upon which to base an answer, and for that reason, denies generally and
10 specifically the allegations contained herein.

11 101. Answering ¶76.1 of the First Amended Complaint, Defendant lacks sufficient
12 information and belief upon which to base an answer, and for that reason, denies generally and
13 specifically the allegations contained herein.

14 102. Answering ¶76.2 of the First Amended Complaint, Defendant lacks sufficient
15 information and belief upon which to base an answer, and for that reason, denies generally and
16 specifically the allegations contained herein.

17 103. Answering ¶76.3 of the First Amended Complaint, Defendant lacks sufficient
18 information and belief upon which to base an answer, and for that reason, denies generally and
19 specifically the allegations contained herein.

20 104. Answering ¶76.4 of the First Amended Complaint, Defendant lacks sufficient
21 information and belief upon which to base an answer, and for that reason, denies generally and
22 specifically the allegations contained herein.

23 105. Answering ¶76.5 of the First Amended Complaint, Defendant lacks sufficient
24 information and belief upon which to base an answer, and for that reason, denies generally and
25 specifically the allegations contained herein.

26 106. Answering ¶76.6 of the First Amended Complaint, Defendant lacks sufficient
27 information and belief upon which to base an answer, and for that reason, denies generally and
28 specifically the allegations contained herein.

1 116. Answering ¶80 of the First Amended Complaint, Defendant lacks sufficient
2 information and belief upon which to base an answer, and for that reason, denies generally and
3 specifically the allegations contained herein.

4 **COUNT 3**

5 117. Answering ¶81 of the First Amended Complaint, Defendant lacks sufficient
6 information and belief upon which to base an answer, and for that reason, denies generally and
7 specifically the allegations contained herein.

8 118. Answering ¶82 of the First Amended Complaint, Defendant lacks sufficient
9 information and belief upon which to base an answer, and for that reason, denies generally and
10 specifically the allegations contained herein.

11 **COUNT 4**

12 119. Answering ¶83 of the First Amended Complaint, Defendant lacks sufficient
13 information and belief upon which to base an answer, and for that reason, denies generally and
14 specifically the allegations contained herein.

15 120. Answering ¶84 of the First Amended Complaint, Defendant lacks sufficient
16 information and belief upon which to base an answer, and for that reason, denies generally and
17 specifically the allegations contained herein.

18 121. Answering ¶85 of the First Amended Complaint, Defendant lacks sufficient
19 information and belief upon which to base an answer, and for that reason, denies generally and
20 specifically the allegations contained herein.

21 **COUNT 5**

22 122. Answering ¶86 of the First Amended Complaint, Defendant lacks sufficient
23 information and belief upon which to base an answer, and for that reason, denies generally and
24 specifically the allegations contained herein.

25 123. Answering ¶87 of the First Amended Complaint, Defendant lacks sufficient
26 information and belief upon which to base an answer, and for that reason, denies generally and
27 specifically the allegations contained herein.

28 124. Answering ¶88 of the First Amended Complaint, Defendant lacks sufficient

1 information and belief upon which to base an answer, and for that reason, denies generally and
2 specifically the allegations contained herein.

3 **COUNT 6**

4 125. Answering ¶89 of the First Amended Complaint, Defendant lacks sufficient
5 information and belief upon which to base an answer, and for that reason, denies generally and
6 specifically the allegations contained herein.

7 126. Answering ¶90 of the First Amended Complaint, Defendant lacks sufficient
8 information and belief upon which to base an answer, and for that reason, denies generally and
9 specifically the allegations contained herein.

10 127. Answering ¶91 of the First Amended Complaint, Defendant lacks sufficient
11 information and belief upon which to base an answer, and for that reason, denies generally and
12 specifically the allegations contained herein.

13 128. Answering ¶92 of the First Amended Complaint, Defendant lacks sufficient
14 information and belief upon which to base an answer, and for that reason, denies generally and
15 specifically the allegations contained herein.

16 **COUNT 7**

17 129. Answering ¶93 of the First Amended Complaint, Defendant lacks sufficient
18 information and belief upon which to base an answer, and for that reason, denies generally and
19 specifically the allegations contained herein.

20 130. Answering ¶94 of the First Amended Complaint, Defendant lacks sufficient
21 information and belief upon which to base an answer, and for that reason, denies generally and
22 specifically the allegations contained herein.

23 **COUNT 8**

24 131. Answering ¶95 of the First Amended Complaint, Defendant lacks sufficient
25 information and belief upon which to base an answer, and for that reason, denies generally and
26 specifically the allegations contained herein.

27 132. Answering ¶96 of the First Amended Complaint, Defendant lacks sufficient
28 information and belief upon which to base an answer, and for that reason, denies generally and

1 specifically the allegations contained herein.

2 133. Answering ¶97 of the First Amended Complaint, Defendant lacks sufficient
3 information and belief upon which to base an answer, and for that reason, denies generally and
4 specifically the allegations contained herein.

5 134. Answering ¶98 of the First Amended Complaint, Defendant lacks sufficient
6 information and belief upon which to base an answer, and for that reason, denies generally and
7 specifically the allegations contained herein.

8 **COUNT 9**

9 135. Answering ¶99 of the First Amended Complaint, Defendant lacks sufficient
10 information and belief upon which to base an answer, and for that reason, denies generally and
11 specifically the allegations contained herein.

12 136. Answering ¶100 of the First Amended Complaint, Defendant lacks sufficient
13 information and belief upon which to base an answer, and for that reason, denies generally and
14 specifically the allegations contained herein.

15 **COUNT 10**

16 137. Answering ¶101 of the First Amended Complaint, Defendant lacks sufficient
17 information and belief upon which to base an answer, and for that reason, denies generally and
18 specifically the allegations contained herein.

19 **COUNT 11**

20 138. Answering ¶102 of the First Amended Complaint, Defendant lacks sufficient
21 information and belief upon which to base an answer, and for that reason, denies generally and
22 specifically the allegations contained herein.

23 139. Answering ¶103 of the First Amended Complaint, Defendant lacks sufficient
24 information and belief upon which to base an answer, and for that reason, denies generally and
25 specifically the allegations contained herein.

26 140. Answering ¶104 of the First Amended Complaint, Defendant lacks sufficient
27 information and belief upon which to base an answer, and for that reason, denies generally and
28 specifically the allegations contained herein.

1 information and belief upon which to base an answer, and for that reason, denies generally and
2 specifically the allegations contained herein.

3 **PRAYER**

4 1. Defendant denies specifically and generally that Plaintiff is entitled to actual
5 damages, as prayed for in the Complaint;

6 2. Defendant denies specifically and generally that Plaintiff is entitled to treble damages
7 under 18 U.S.C. §1964(c) as alleged in the Complaint;

8 3. Defendant denies specifically and generally that Plaintiff is entitled to punitive
9 damages in an amount not less than three times Plaintiff' actual damages, as alleged in the
10 Complaint;

11 4. Defendant denies specifically and generally that Plaintiff is entitled to pre-judgment
12 interest according to statute or otherwise;

13 5. Defendant denies specifically and generally that Plaintiff is entitled to post-judgment
14 interest according to statute or otherwise;

15 6. Defendants deny specifically and generally that Plaintiff is entitled to costs of suit;
16 and

17 7. Defendants deny specifically and generally that Plaintiff is entitled to any other such
18 relief.

19 **DEMAND FOR JURY TRIAL**

20 Defendant hereby demands a jury trial in this action.

21 **AFFIRMATIVE DEFENSES**

22 The following affirmative defenses are alleged on information and belief by Defendant, and
23 except as expressly stated otherwise, each defense applies to the entire Complaint and to each
24 purported cause of action or claim for relief therein and to each plaintiff. Defendant reserves the
25 right to amend or withdraw any or all defenses or to raise any and all additional defenses as or after
26 they may become known during the course of investigation or discovery, or trial.

27 No assertion of any affirmative defense shall constitute either (a) an admission that Plaintiff
28 does not bear the burden of proof or burden of producing evidence on any element of any cause of

1 action or claim for relief or on any issue as to which a plaintiff bears the burden of proof or the
 2 burden of producing evidence as a matter of law; or (b) a waiver of Defendant's right to require that
 3 Plaintiff satisfy any burden of proof or burden of producing evidence.

4 AS A FIRST AFFIRMATIVE DEFENSE to the Complaint, and each alleged cause of action
 5 thereof, Defendant alleges that said Complaint fails to state a claim upon which relief can be granted.

6 AS A SECOND AFFIRMATIVE DEFENSE to the Complaint, and each alleged cause of
 7 action thereof, Defendant alleges that the injuries and damages Plaintiff complain of, if any, resulted
 8 from the acts and/or omissions of others, and without any fault on the part of this answering
 9 Defendant.

10 AS A THIRD AFFIRMATIVE DEFENSE to the Complaint, Defendant alleges that at the
 11 time of the injuries alleged in the Complaint, negligence, fault or other legal liability of parties
 12 (named or unnamed) other than Defendant was the sole, contributory, or concurrent proximate and
 13 legal cause of any injury, loss, or damage, including non-economic damages, if any, allegedly
 14 sustained by Plaintiff; and Defendant is not liable for these other parties' proportionate share of non-
 15 economic damages, if any, pursuant to California Civil Code sections 1431, et seq. and other
 16 principles of law and equity.

17 AS A FOURTH AFFIRMATIVE DEFENSE to the Complaint, Defendant alleges that
 18 Plaintiff assumed any and all risks, hazards, and perils alleged in the Complaint, and therefore
 19 assumed the risk of all injuries or damages sustained, if any, which serves to bar or reduce any
 20 recovery by Plaintiff.

21 AS A FIFTH AFFIRMATIVE DEFENSE to the Complaint, Defendant alleges that
 22 Plaintiff's alleged injuries and damages, if any, resulted from inherent risks of the activity in which
 23 Plaintiff voluntarily engaged and as to which Defendant owed no duty.

24 AS A SIXTH AFFIRMATIVE DEFENSE to the Complaint, and each alleged cause of
 25 action thereof, Defendant alleges that Plaintiff failed to mitigate his damages, if any.

26 AS A SEVENTH AFFIRMATIVE DEFENSE to the Complaint, and each alleged cause of
 27 action thereof, Defendant alleges that Plaintiff's Complaint is barred by the applicable Statute of
 28 Limitations, including of the "Completed and Accepted" Rule as stated in *Jones v. P.S. Development*

Co., Inc. (2008) 166 Cal.App.4th 707, 712 [disapproved on another ground in *Reid v. Google, Inc.* (2010) 50 Cal.4th 512, 532, fn. 7]; *see also, Neiman v. Leo A. Daly Co.* (2012) 210 Cal.App.4th 962, and *Sanchez v. Swinerton & Walberg Co.* (1996) 47 Cal.App.4th 1461.

AS AN EIGHTH AFFIRMATIVE DEFENSE to the Complaint, and each alleged cause of action thereof, Defendant alleges that the Complaint is barred by the equitable doctrine of laches.

AS A NINTH AFFIRMATIVE DEFENSE to the Complaint, and each alleged cause of action thereof, Defendant alleges that the Complaint is barred by the equitable doctrine of unclean hands.

AS A TENTH AFFIRMATIVE DEFENSE to the Complaint, and each alleged cause of action thereof, Defendant alleges that the Complaint is barred by the equitable doctrine of estoppel.

AS AN ELEVENTH AFFIRMATIVE DEFENSE to the Complaint, and each alleged cause of action thereof, Defendant alleges that plaintiff has waived his rights to bring this action against them.

AS A TWELFTH AFFIRMATIVE DEFENSE to the Complaint, Defendant alleges that Defendant had no duty with respect to any defect or condition of which Plaintiff complains because said alleged defect or condition, if any, was trivial as a matter of law.

AS A THIRTEENTH AFFIRMATIVE DEFENSE to the Complaint, and each alleged cause of action thereof, Defendant alleges that any damages sustained by plaintiff were either fully or in part the fault of others, whether that fault be the proximate result of negligence, strict liability, breach of warranty, breach of contract, or any other type of fault caused by persons, firms, corporations or entities, other than this answering defendant, and that said negligence or fault comparatively reduces the percentage of fault or negligence, if any, by this answering defendant.

AS A FOURTEENTH AFFIRMATIVE DEFENSE to the Complaint, and each alleged cause of action thereof, this answering Defendant alleges that any alleged defect or condition was open and obvious by virtue of its appearance, form, function, instructions, warnings, or other features, and Plaintiff, or others who assumed responsibility for Plaintiff's safety and well-being, knew of in the exercise of reasonable care should have known of it and taken measures to mitigate or avoid it.

AS A FIFTEENTH AFFIRMATIVE DEFENSE to the Complaint, and each alleged cause

1 of action thereof, this answering defect alleges that if Plaintiff suffered any damages, which is
2 denied, such damages were and are the sole and proximate result of unavoidable accident insofar as
3 Defendant was or is concerned and occurred without any fault or want of care on the part of
4 Defendant, or on the part of any person or persons for whose acts Defendant was or is legally
5 responsible.

6 AS A SIXTEENTH AFFIRMATIVE DEFENSE to the Complaint, and each alleged cause
7 of action thereof, Defendant are informed and believes and thereon allege that decedent and
8 Plaintiff, with full appreciation of the particular risks involved, nevertheless knowingly and
9 voluntarily assumed the risks and hazards of the incident complained of and the damages, if any,
10 resulting therefrom.

11 AS A SEVENTEENTH AFFIRMATIVE DEFENSE to the Complaint, Defendant is
12 informed and believe and thereon alleges Plaintiff has failed to join necessary parties needed for a
13 just adjudication of this action.

14 AS AN EIGHTEENTH AFFIRMATIVE DEFENSE to the Complaint, Defendant alleges
15 that as to any cause of action or claim for relief therein based upon contract, warranty or any related
16 theory, Plaintiff failed to meet the applicable conditions precedent and/or conditions subsequent.

17 AS A NINETEENTH AFFIRMATIVE DEFENSE to the Complaint, Defendant alleges that
18 as to the any cause of action or claim for relief based upon contract, warranty, or any related theory,
19 Plaintiff was not in privity of contract with Defendant.

20 AS A TWENTIETH AFFIRMATIVE DEFENSE to the Complaint, Defendant alleges that
21 any loss, injury, or damage incurred by Plaintiff was proximately caused by the negligent or willful
22 acts or omissions of parties or other persons or entities whom Defendant neither controlled nor had
23 the right to control, and was not proximately caused by any acts, omissions, or other conduct of
24 Defendant.

25 AS A TWENTY-FIRST AFFIRMATIVE DEFENSE to the Complaint, Defendant alleges
26 that Plaintiff failed to give adequate notice of any dangerous, hazardous, or defective condition, or
27 any breach of warranty, either express or implied.

28

1 AS A TWENTY-SECOND AFFIRMATIVE DEFENSE, Defendant alleges that if Plaintiff
2 has received, or in the future may receive, Workers' Compensation benefits under the California
3 Labor Code as a consequence of the alleged injury referred to in the Complaint, and in the event
4 Plaintiff is awarded damages against Defendant, any award against Defendant must be reduced, or
5 alternatively Defendant claims a credit against these awards to the extent that Defendant is barred
6 from enforcing its rights to reimbursement for Workers' Compensation benefits, in the amount of
7 all such benefits that plaintiff has received or may receive in the future.

8 AS A TWENTY-THIRD AFFIRMATIVE DEFENSE, Defendant alleges that if Plaintiff has
9 received, or in the future may receive, Workers' Compensation benefits under the California Labor
10 Code as a consequence of the alleged injury referred to in the Complaint, Defendant demands
11 repayment of any such Workers' Compensation benefits in the event that Plaintiff recovers tort
12 damages as a result of the injury allegedly involved in this case. Although Defendant denies the
13 validity of Plaintiff's claims, in the event those claims are held valid and not barred by the statutes
14 of limitations or otherwise, Defendant asserts that cross-demands for money have existed between
15 Plaintiff and Defendant and the demands are compensated, so far as they equal each other, pursuant
16 to California Code of Civil Procedure section 431.70.

17 AS A TWENTY-FOURTH AFFIRMATIVE DEFENSE, Defendant alleges that the injuries
18 alleged in the Complaint, if any, were proximately caused by an unforeseen superseding and
19 intervening event beyond the control of Defendant.

20 AS A TWENTY-FIFTH AFFIRMATIVE DEFENSE, Defendant alleges that the Complaint
21 and each cause of action are vague, ambiguous, and uncertain, and as a result, do not permit
22 Defendant to raise all appropriate defenses, and, thus, Defendant reserves the right to add additional
23 defenses as the factual basis for these claims becomes known.

24 ///

25 ///

26 ///

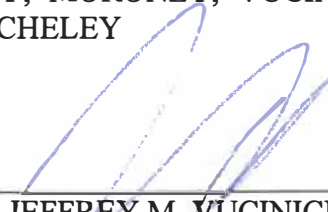
27 ///

28 ///

1 Dated: December 22, 2021

CLAPP, MORONEY, VUCINICH, BEEMAN
and SCHELEY

2
3
4 By:


JEFFREY M. VUCINICH, ESQ.
DANIEL D. MARCUS, ESQ.
Attorneys for Defendant
KRISTOFER BIORN

Paul Mula Jr., et al. v. Helene Mula-Stouky, et al.
 United States District Court, Northern District of California Case No. Case No. 5:21-cv-04540-NC

CERTIFICATE OF SERVICE
 [Code of Civ. Proc. §§ 1011, 1013, 1031a, 2015.5]

METHOD OF SERVICE:

☐ By Personal Service ☐ By Mail ☐ By Overnight Delivery
☐ By Messenger Service ☐ By Facsimile ☒ By E-Mail/Electronic Transmission

1. I am a citizen of the United States and am employed in the County of San Mateo, State of California. I am over the age of 18 years and not a party to the within action.
2. My place of employment is 1111 Bayhill Drive, Suite 300, San Bruno, California 94066.
3. On the date set forth below, I caused to be served a true and correct copy of the document described as:

DEFENDANT KRISTOFER BIORN'S ANSWER TO PLAINTIFFS FIRST AMENDED COMPLAINT

4. I served the documents on the persons below, as follows:

Cari A. Cohorn, Esq. Cohorn Law 100 Pine St., Suite 1250, San Francisco, CA 94111 Tel: (415) 993-9005 Email: cohorn@cohornlaw.com <i>Attorneys for Plaintiffs Paul Mula Jr., a California resident, individually, and on behalf of the Ogier Revocable Trust, together with the putative Helene Mula-Stouky and Paul S. Mula Jr. Trusts</i>	Dennis L. Hall, Esq. Dennis L Hall, Attorney, pllc 3033 North Central, Suite 810 Phoenix, Arizona 85012 Tel: (480) 596-4045 Email: dennis@dlhall.net <i>Attorneys for Plaintiffs Paul Mula Jr., a California resident, individually, and on behalf of the Ogier Revocable Trust, together with the putative Helene Mula-Stouky and Paul S. Mula Jr. Trusts</i>
---	--

<p>Gerald D.W. North, Esq. Gerald D.W. North & Associates 125 S. Wacker Dr., Suite 1000 Chicago, IL 60606 Tel: (831) 224-0007 Email: northlaw2@yahoo.com</p> <p><i>Attorneys for Plaintiffs Paul Mula Jr., a California resident, individually, and on behalf of the Ogier Revocable Trust, together with the putative Helene Mula-Stouky and Paul S. Mula Jr. Trusts</i></p>	<p>Bonnie Margaret Ross, Esq. Messner Reeves LLP 160 W. Santa Clara Street, Suite 1000 San Jose, CA 95113 Tel: (408) 298-7120 Fax: (408) 298-0477 Email: bross@messner.com</p> <p><i>Attorneys for Defendants Helene Mula Stouky, by and through her Conservator of the Estate, Patricia M. Bye; Patricia M. Bye, individually, as Conservator of the Estate, as Successor Trustee of the Helene Mula Stouky Trust dated November 24, 1997, and as Successor Trustee of the Ogier Revocable Trust dated August 17, 2000; Alexandra Martin, individually and as Counsel to Patricia M. Bye; Robert E. Temmerman, individually and as Court-Appointed Counsel to Helene Mula Stouky; Christina Smith (erroneously sued as Christine Weiss), individually and as Conservator of the Person of Helene Mula Stouky</i></p>
<p>David S. Rosenbaum, Esq. McDowall • Cotter, A.P.C. 2070 Pioneer Court San Mateo, CA 94403 Tel: (650) 572-7933 Email: drosenbaum@mcclawyers.net</p> <p><i>Attorneys for Defendant Alan Mula</i></p>	

5. The document(s) was served by the following means (specify):

- a. ☐ **BY PERSONAL SERVICE.** I caused to be personally delivered the documents to the persons at the addresses listed in item 4. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not less than 18 years of age between the hours of eight in the morning and six in the evening.
- b. ☐ **BY UNITED STATES MAIL.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 4 and (specify one):
- (1) ☐ deposited the sealed envelope with the United States Postal Services, with the postage fully prepaid.
- (2) ☐ placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that

correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the County where the mailing occurred. The envelope or package was placed in the mail at San Bruno, California, County of San Mateo.

- c. ☐ **BY OVERNIGHT DELIVERY.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses in item 4. I place the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- d. ☐ **BY MESSENGER SERVICE.** I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed in item 4 and providing them to a professional messenger service for service.
- e. ☐ **BY FAX TRANSMISSION.** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed in item 4. No error was reported by the fax machine that I used.
- f. ☒ **BY E-MAIL OR ELECTRONIC TRANSMISSION.** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the email addresses listed in item 4. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☐ **(State)** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

☒ **(Federal)** declare that I am employed in the offices of a member of the bar of this court at whose direction this service was made. I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 22, 2021 at San Bruno, California.



Rosa Uribe